

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re:	:	
Peter M. Kranack	:	Case No.15-23309-JAD
	:	Chapter 13
Debtor(s)	:	
Ronda J. Winnecour, Chapter 13	:	
Trustee	:	
Movant(s)	:	
vs.	:	
U.S. Bank Trust National Association,	:	
as trustee for CVP III Mortgage Loan	:	
Trust II	:	
Respondent(s)	:	

TRUSTEE'S MOTION FOR DETERMINATION MORTGAGE
CREDITOR HAS BEEN PAID PER PLAN AND TO CONFIRM
DEBTOR RESUMPTION OF PAYMENTS

1. Debtor's original plan (dated 9/9/15), and amended plans (dated 7/7/17 and 8/9/17) provided for Carrington Mortgage Services, LLC, to be paid as long term continuing debt. Carrington filed a proof of claim on 1/15/16 (POC 3-1) that provided for an arrears of \$11,818.16 and monthly payments of \$667.85 (principal, interest, and escrow).

2. On 9/8/17 a Notice of Transfer of the Claim was filed (Doc 61) naming Cerastes, LLC, as transferee. Cerastes filed an amended POC on 2/7/18 (POC 3-2) which provided for the same monthly payment of \$667.85 (principal, interest, and escrow) with no arrears.¹

¹ Trustee questioned the removal of the arrears in the amended proof of claim in emails to the Debtor's attorney on 2/12/18 and 4/11/18 given that there was no loan modification of record. Trustee advised Counsel that that the arrears record provided for in the original proof of claim would be put on reserve pending further instructions. As there were never any further instructions, Trustee adjusted her records to remove the arrears, and to apply all prior payments on the arrears, in the amount \$5,843.54 to the monthly mortgage payments. This results, as discussed below, in an overpayment of post-petition mortgage payments, after implementing all payment change notices of record, of \$581.76.

3. On 11/2/18 a Notice of Transfer of the Claim was filed (Doc 72) naming U.S. Bank Trust National Association, as trustee for CVF III Mortgage Loan Trust II, as transferee.

3. Trustee paid Carrington/Cerastes/U.S. Bank Trust a total of \$46,165.70 during the term of the plan (inclusive of the reallocation of the \$5,843.54 paid on account of the arrears before Claim 3-2 was filed). The amount that should have paid as long term continuing debt, in the monthly amount provided for in the proof of claim then following all payment change notices of record is \$45,583.94, as follows:

Begin	End	Mos	Pmt	Total	Running total to be paid
10/01/2015	07/01/2016	9	667.85	6,010.65	6,010.65
07/01/2016	01/01/2017	6	674.16	4,044.96	10,055.61
01/01/2017	04/01/2019	27	672.59	18,159.93	28,215.54
04/01/2019	03/01/2020	11	818.40	9,002.40	37,217.94
03/01/2020	01/01/2021	10	836.60	8,366.00	45,583.94

4. There were no Notice(s) of Postpetition Mortgage Fees, Expenses, and Charges.

5. A second problem in this case, beyond the removal of the arrears in the amended proof of claim, was that upon further review of the proofs of claims it appears that the mortgage may have matured during the plan term. Trustee has also pointed this out to Debtor's counsel, and understands that Counsel attempted to discuss this with the mortgage creditor but has been unsuccessful in making a productive contact.

6. The plan has reached the end of the plan term which, in turn requires the Trustee to commence the case closure procedures (which includes an audit

and the filing and seeking approval of a final accounting). Trustee requires resolution of the mortgage claim to enable her to proceed with the case closure procedures.

7. Based on the plan and filed claim(s) and payment change notices, and to enable her to proceed with case closure procedures, Trustee requests an Order that determines that: (a) the Trustee has disbursed all payments in accordance with the Debtor's Chapter 13 Plan through December 31, 2020, as to the mortgage of Carrington/Cerastes/U.S. Bank Trust (filed at Proof of Claim 3-2); (b) there are no pre-petition arrears to have been paid and the post-petition payments are fully current as of December 31, 2020, based on the plan and payment change notices of record; (c) Debtor(s) are to have resumed direct payments for all payments due in and after January 2021 (with a credit against the January 2021 payment of \$581.76); and (d) Debtor(s) and mortgage creditor retain, subject to the foregoing determinations, all rights to deal with any balance still due on the mortgage post-plan completion.

WHEREFORE, the Trustee respectfully requests that the Court enter an Order as above requested.

RONDA J. WINNECOUR,
CHAPTER 13 TRUSTEE

Date: December 1, 2020

By: /s/ Owen W. Katz
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CERTIFICATE OF SERVICE

I hereby certify that on the 1st of December 2020, I served one true and correct copy of Motion, proposed order, along with the notice of hearing on the following parties in interest by United States first-class mail, postage prepaid unless otherwise stated, addressed as follows:

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